IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

      Rovira, Luis A.

Serial No.: 09/847,625

Filed: May 2, 2001

Confirmation No.: 5607

Group Art Unit: 2623

Examiner: Lonsberry, Hunter B.

Docket No.: A-6671 (191910-1780)

For: **System and Method for Providing Television Programs on Demand**

APPEAL BRIEF UNDER 37 C.F.R. §41.37

Mail Stop Appeal Brief – Patents
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

     This is an appeal under 37 C.F.R § 41.37, pursuant to the Notice of Appeal filed July 26,

2007 and the Final Office Action mailed January 26, 2007, rejecting claims 1 – 25 and 27 – 36

in the present application.

     It is not believed that extensions of time or fees are required to consider this Appeal Brief.

However, in the event that additional extensions of time are necessary to allow consideration of this

paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required

therefor are hereby authorized to be charged to Deposit Account No. 20-0778.

I. REAL PARTY IN INTEREST

The real party in interest of the instant application is Scientific-Atlanta, Inc., having its principal place of business at 5030 Sugarloaf Parkway, Lawrenceville, GA 30044. Scientific-Atlanta, Inc., the assignee of record, is wholly owned by Cisco Systems, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. STATUS OF THE CLAIMS

Claims 1 – 25 and 27 – 36 currently stand rejected. Claim 26 is canceled. No claims are allowed. Appellants appeal the final rejection of claims 1 – 25 and 27 – 36.

IV. STATUS OF AMENDMENTS

No amendments have been made or requested since the mailing of the FINAL Office Action and all amendments submitted prior to the FINAL action have been entered. The claims in the attached Claims Appendix (see below) reflect the present state of Appellants' claims.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed subject matter is summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter, described in the following, appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure. Additionally, reference to the embodiment of claim 1 is representative of one, among other embodiments disclosed in the present application.

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Independent claim 1 includes a method for providing media services via an interactive media services client device coupled to a programmable media services server device. The method of claim 1 includes providing a user with an interactive program guide (IPG), the IPG including a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time, said IPG being configured to provide a user option to highlight at least one scheduled program in the television program schedule (see for example, FIGS. 6 and 12, beginning page 15, line 20 and page 17, line 17, respectively). The method of claim 1 also includes, in response to a user highlighting said scheduled future television program, providing said user with an option to view the highlighted scheduled future television program at a user-defined time. The method of claim 1 also includes receiving user input requesting said scheduled future television program for display at a user-defined time (see for example FIGS. 6 and 12, focus area 101, page 15, line 25, and page 17, line 17) wherein said user-defined time is prior to said later time, and wherein said user input requesting said scheduled future television program for display at a user-defined time includes a request for beginning a display of the scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17). Further, the method of claim 1 includes providing said user with said scheduled future television program at said user-defined time (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17).

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Similarly, independent claim 19 includes a media services device for providing a client device with a media presentation. The device of claim 19 includes logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, said television program schedule including at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17). The device of claim 19 also includes logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule, said IPG being configured to provide a user option to highlight at least one scheduled television program in the program schedule (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17). The device of claim 19 also includes logic configured to provide, in response to a user highlighting said scheduled future television program, said client device with data related to a user option to provide said client device with said scheduled future television program at a user-defined time (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17). Further, the device of claim 19 includes logic configured to provide said client device with said scheduled future television program at a user-defined time according to a received user input, wherein said user-defined time is prior to said later time, and wherein said received user input can include a request for beginning a display of the scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17).

Similarly independent claim 36 includes a media services client device for providing a

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user with a media presentation. The device of claim 36 includes logic configured to receive

from a cable television system (CTS) a television program schedule with a plurality of

scheduled television programs, the plurality of scheduled television programs including at least

one currently scheduled television program, said currently scheduled television program

being scheduled for broadcast to a plurality of users at a predetermined current time, and at

least one scheduled future television program, said scheduled future television program

being otherwise available only via a scheduled broadcast to a plurality of users at a

predetermined later time (see for example FIGS. 6 and 12, page 15, line 25 and page 17,

line 17). Additionally, the device of claim 36 includes logic configured to provide said user

with an interactive program guide (IPG) configured to display the television program

schedule, said IPG being further configured to provide a user option to highlight a scheduled

television program in the program schedule (see for example FIGS. 6 and 12, page 15, line

25 and page 17, line 17). Further, the device of claim 36 includes logic configured to

provide, in response to a user highlighting said scheduled future television program, said

user with said scheduled future television program at a user-defined time, wherein said user-

defined time is prior to said later time, and wherein said logic configured to provide said user

with said scheduled future television program at a user-defined time includes logic configured

to begin presentation of said scheduled future television program at a time when said

scheduled future television program is not scheduled to begin broadcasting to a plurality of

users (see for example FIGS. 6 and 12, page 15, line 25 and page 17, line 17).

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Independent claims 1, 19, and 36 stand rejected under 35 U.S.C. § 103(a) as being

allegedly unpatentable over WO 99/60790 ("*Ellis*") in view of U.S. Patent Number 6,772,433

("*LaJoie*"), further in view of NPL reference www.thestranber.com ("*The Stranger*"), and U.S.

Patent Number 6,211,901 ("*Imajima*").

VII.   Rejections Under 35 U.S.C. §103

Appellants respectfully submit that Appellants' claims 1 – 25 and 27 – 36 are patentable in view of 35 U.S.C. §103. A proper rejection of a claim under 35 U.S.C. §103, based upon a combination of references must show that the cited combination of references discloses, teaches, or suggests, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical,* 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller,* 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Appellants respectfully traverse the rejections described in the Final Office Action. For at least the reasons set forth below, Appellants respectfully request that the Board of Patent Appeals overturn the final rejection of those claims.

A.   The Cited References

1.   The *Ellis* Reference

Ellis discloses a "Program Guide System with Video-On-Demand Browsing" (Title, emphasis added). "If a video-on-demand program of interest is found, the viewer has several options. For example, the viewer may... 2) request the program..." (p. 25, line 10, emphasis added). "[I]f the selected program is ordered for a later time, the program guide may automatically start the program at that later time. Furthermore, the program guide may be configured to present a reminder screen... so that the viewer is reminded of the scheduled start-time. When this reminder is received, the viewer may be given the option to... watch the program immediately..." (p. 25, line 30).

2.   The *LaJoie* Reference

LaJoie appears to disclose, at most, an "interactive Program Guide For Designating Information on an Interactive Program Guide Display" (Title). More specifically, *LaJoie* appears to disclose a "[h]ighlighted program summary 346 [that] may list program name 374, running time 376, brief description 378, and icons 380 indicating applicable characteristics program (SAP), and stereo for the program highlighted in the program grid 366 by program cursor 394" (column 24, line 12).

3.   The *TheStranger* Reference

TheStranger appears to disclose, at most, a listing of *The Truman Show* next to the date of February 11.

4.   The *Imajima* Reference

Imajima appears to disclose, at most, a "Video Data Distributing device by <u>Video on Demand</u> "(Title). NVOD… More specifically, *Imajima* discloses "a system of effectively controlling the video-on-demand service" (column 1, line 7).

B.   Rejection of Independent Claims 1, 19 and 36

The Office Action rejects claims 1, 19 and 36 under 35 U.S.C. § 103(a) as being allegedly anticipated by *Ellis* in view of *LaJoie, TheStranger* and *Imajima*.

1.   Claim 1 is Allowable Over *Ellis* in view of *LaJoie, TheStranger* and *Imajima*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over WO 99/60790 ("*Ellis*") in view of U.S. Patent Number 6,772,433 ("*LaJoie*"), NPL reference www.thestranger.com ("*The Stranger*"), and U.S. Patent Number 6,211,901 ("*Imajima*"). Appellants respectfully traverse this rejection for at least the reason that *Ellis* in view of *LaJoie* and *Imajima* fails to disclose, teach, or suggest all of the elements of claim 1. More specifically, claim 1 recites:

> A method for providing media services via an interactive media services client device coupled to a programmable media services server device, said method comprising:
> providing a user with an interactive program guide (IPG), the IPG including a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being ***scheduled for broadcast to a plurality of users at a predetermined current time***, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled ***broadcast to a plurality of users at a predetermined later time***, said ***IPG being configured to provide a user option to highlight at least one scheduled program*** in the television program schedule;
> ***in response to a user highlighting said scheduled future television program***, providing said user with an ***option to view the highlighted scheduled future television program at a user-defined time***;
> receiving user input requesting said scheduled future television program for display at a user-defined time, wherein said user-defined time is prior to said later time, and wherein said user input requesting said scheduled future television program for display at a user-defined time includes a request for beginning a display of the scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users; and
> providing said user with said scheduled future television program at said user-defined time. ***(emphasis added)***

Appellants respectfully submit that claim 1 is allowable over the cited art for at least the

reason that *Ellis* in view of *TheStranger*, further in view of *LaJoie*, and further in view of *Imajima* fails to disclose, teach, or suggest a "method for providing media services via an interactive media services client device coupled to a programmable media services server device, said method comprising... providing a user with an interactive program guide (IPG), the IPG including a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled **broadcast to a plurality of users at a predetermined later time**, said **IPG being configured to provide a user option to highlight at least one scheduled program** in the television program schedule... [and] **in response to a user highlighting said scheduled future television program**, providing said user with an **option to view the highlighted scheduled future television program at a user-defined time**" as recited in claim 1.

More specifically, Appellants submit that *Ellis* discloses a "Program Guide System with Video-On-Demand Browsing" (Title, <u>emphasis added</u>). "If a <u>video-on-demand</u> program of interest is found, the viewer has several options. For example, the viewer may... 2) request the program..." (p. 25, line 10, <u>emphasis added</u>). "[I]f the selected program is ordered for a later time, the program guide may automatically start the program at that later time. Furthermore, the program guide may be configured to present a reminder screen... so that the viewer is reminded of the scheduled start-time. When this reminder is received, the viewer may be given the option to... watch the program immediately..." (p. 25, line 30). *Ellis* appears to disclose that a user can schedule a <u>video-on-demand program</u> for his/her <u>independent viewing</u> and can then reschedule the program for his/her independent viewing. Appellants respectfully submit that this is different than "providing a user with an interactive program guide (IPG), the IPG

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including a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled **broadcast to a plurality of users at a predetermined later time**, said **IPG being configured to provide a user option to highlight at least one scheduled program** in the television program schedule… [and] **in response to a user highlighting said scheduled future television program**, providing said user with an **option to view the highlighted scheduled future television program at a user-defined time**" as recited in claim 1.

Appellants additionally submit that *LaJoie* fails to overcome the deficiencies of *Ellis*. More specifically, *LaJoie* appears to disclose a "[h]ighlighted program summary 346 [that] may list program name 374, running time 376, brief description 378, and icons 380 indicating applicable characteristics program (SAP), and stereo for the program highlighted in the program grid 366 by program cursor 394" (column 24, line 12). Appellants respectfully submit that this is different than "providing a user with an interactive program guide (IPG), the IPG including a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled **broadcast to a plurality of users at a predetermined later time**, said **IPG being configured to provide a user option to highlight at least one scheduled program** in the television program schedule… [and] **in response to a user highlighting said scheduled future television program**, providing said user with an **option to view the highlighted**

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scheduled future television program at a user-defined time" as recited in claim 1. For at

least this reason, claim 1 is allowable over the cited art.

Additionally, neither *TheStranger* nor *Imajima* disclose all of the elements of claim 1.

More specifically, *TheStranger* merely discloses *The Truman Show* next to the date of

February 11. *TheStranger* not only fails to disclose anything related to an "**IPG being**

configured to provide a user option to highlight at least one scheduled program in the

television program schedule," but *TheStranger* fails to disclose whether *The Truman Show*

has aired the previous February 11, whether the author of *TheStranger* desires to view *The*

Truman Show at this time, or anything related to claim 1. For at least this reason,

TheStranger fails to overcome the deficiencies of *Ellis*.

Further, *Imajima* appears to disclose, at most, "an NVOD... [and] an FVOD" (column

1, line 30). Appellants respectfully submit that this does not overcome the deficiencies of

Ellis, *LaJoie*, and *TheStranger*. For at least the reason that the references independently and

in combination fail to disclose all of the claimed elements, claim 1 is allowable over the cited

art.

2. Claim 19 is Allowable Over *Ellis* in view of *LaJoie, TheStranger* and *Imajima*

The Office Action indicates that claim 19 stands rejected under 35 U.S.C. 103(a) as

being allegedly unpatentable over *Ellis* in view of *LaJoie* and *Imajima*. Appellants respectfully

traverse this rejection for at least the reason that *Ellis* in view of *LaJoie* and *Imajima* fails to

disclose, teach, or suggest all of the elements of claim 19. More specifically, claim 19 recites:

> A media services device for providing a client device with a
> media presentation, said device comprising:
> logic configured to receive from a cable television system (CTS) a
> television program schedule with a plurality of scheduled programs, the
> plurality of scheduled programs including at least one currently
> scheduled television program, said currently scheduled television

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program being *scheduled for broadcast to a plurality of users at a predetermined current time*, said television program schedule including at least one scheduled future television program, said scheduled future television program being otherwise available only via a *scheduled broadcast to a plurality of users at a predetermined later time*;

logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule, said IPG being configured to provide a user *option to highlight at least one scheduled television program in the program schedule*;

logic configured to provide, *in response to a user highlighting said scheduled future television program*, said client device with data related to a user option to provide said client device with said *scheduled future television program at a user-defined time*; and

logic configured to provide said client device with said scheduled future television program at a user-defined time according to a received user input,

wherein said user-defined time is prior to said later time, and

wherein said received user input can include a request for beginning a display of the scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users. *(emphasis added)*

Appellants respectfully submit that claim 19 is allowable over the cited art for at least the reason that *Ellis* in view of *TheStranger*, further in view of *LaJoie*, and further in view of *Imajima* fails to disclose, teach, or suggest a "media services device for providing a client device with a media presentation, said device comprising… logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being *scheduled for broadcast to a plurality of users at a predetermined current time*, said television program schedule including at least one scheduled future television program, said scheduled future television program being otherwise available only via a *scheduled broadcast to a plurality of users at a predetermined later time*… logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television

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program schedule, said IPG being configured to provide a user **option to highlight at least one scheduled television program in the program schedule**… [and] logic configured to provide, **in response to a user highlighting said scheduled future television program**, said client device with data related to a user option to provide said client device with said **scheduled future television program at a user-defined time**" as recited in claim 19.

More specifically, Appellants submit that *Ellis* discloses a "Program Guide System with Video-On-Demand Browsing" (Title, emphasis added). "If a video-on-demand program of interest is found, the viewer has several options. For example, the viewer may… 2) request the program…" (p. 25, line 10, emphasis added). "[I]f the selected program is ordered for a later time, the program guide may automatically start the program at that later time. Furthermore, the program guide may be configured to present a reminder screen… so that the viewer is reminded of the scheduled start-time. When this reminder is received, the viewer may be given the option to… watch the program immediately…" (p. 25, line 30). *Ellis* appears to disclose that a user can schedule a video-on-demand program for his/her independent viewing and can then reschedule the program for his/her independent viewing. Appellants respectfully submit that this is different than "logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, said television program schedule including at least one scheduled future television program, said scheduled future television program being otherwise available only via a **scheduled broadcast to a plurality of users at a predetermined later time**… logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule, said IPG being configured to provide a user **option to highlight at least one scheduled**

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television program in the program schedule... [and] logic configured to provide, *in response to a user highlighting said scheduled future television program*, said client device with data related to a user option to provide said client device with said *scheduled future television program at a user-defined time*" as recited in claim 19.

Appellants additionally submit that *LaJoie* fails to overcome the deficiencies of *Ellis*. More specifically, *LaJoie* appears to disclose a "[h]ighlighted program summary 346 [that] may list program name 374, running time 376, brief description 378, and icons 380 indicating applicable characteristics program (SAP), and stereo for the program highlighted in the program grid 366 by program cursor 394" (column 24, line 12). Appellants respectfully submit that this is different than "logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being *scheduled for broadcast to a plurality of users at a predetermined current time*, said television program schedule including at least one scheduled future television program, said scheduled future television program being otherwise available only via a *scheduled broadcast to a plurality of users at a predetermined later time*... logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule, said IPG being configured to provide a user *option to highlight at least one scheduled television program in the program schedule*... [and] logic configured to provide, *in response to a user highlighting said scheduled future television program*, said client device with data related to a user option to provide said client device with said *scheduled future television program at a user-defined time*" as recited in claim 19. For at least this reason, claim 19 is allowable over the cited art.

Additionally, neither *TheStranger* nor *Imajima* disclose all of the elements of claim 19.

More specifically, *TheStranger* merely discloses *The Truman Show* next to the date of February 11. *TheStranger* not only fails to disclose anything related to "logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule, said IPG being configured to provide a user **option to highlight at least one scheduled television program in the program schedule**," but *TheStranger* fails to disclose whether *The Truman Show* has aired the previous February 11, whether the author of *TheStranger* desires to view *The Truman Show* at this time, or anything related to claim 19. For at least this reason, *TheStranger* fails to overcome the deficiencies of *Ellis*.

Further, *Imajima* appears to disclose, at most, "an NVOD… [and] an FVOD" (column 1, line 30). Appellants respectfully submit that this does not overcome the deficiencies of *Ellis*, *LaJoie*, and *TheStranger*. For at least the reason that the references independently and in combination fail to disclose all of the claimed elements, claim 19 is allowable over the cited art.

3. Claim 36 is Allowable Over *Ellis* in view of *LaJoie, TheStranger* and *Imajima*

The Office Action indicates that claim 36 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over *Ellis* in view of *LaJoie* and *Imajima*. Appellants respectfully traverse this rejection for at least the reason that *Ellis* in view of *LaJoie* and *Imajima* fails to disclose, teach, or suggest all of the elements of claim 36. More specifically, claim 36 recites:

> A media services client device for providing a user with a media presentation, said device comprising:
> logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled television programs, the plurality of scheduled television programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, and at least one scheduled future television program, **said scheduled future television program being otherwise available only via a scheduled**

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broadcast to a plurality of users at a predetermined later time;
logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule, said IPG being further configured to *provide a user option to highlight a scheduled television program in the program schedule*; and
logic configured to provide, *in response to a user highlighting said scheduled future television program*, said user *with said scheduled future television program at a user-defined time*,
wherein said user-defined time is prior to said later time, and
wherein said logic configured to provide said user with said scheduled future television program at a user-defined time includes logic configured to begin presentation of said scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users. *(emphasis added)*

Appellants respectfully submit that claim 36 is allowable over the cited art for at least the reason that *Ellis* in view of *TheStranger*, further in view of *LaJoie*, and further in view of *Imajima* fails to disclose, teach, or suggest a "media services client device for providing a user with a media presentation, said device comprising… logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled television programs, the plurality of scheduled television programs including at least one currently scheduled television program, said currently scheduled television program being *scheduled for broadcast to a plurality of users at a predetermined current time*, and at least one scheduled future television program, *said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time*… logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule, said IPG being further configured to *provide a user option to highlight a scheduled television program in the program schedule*… [and] logic configured to provide, *in response to a user highlighting said scheduled future television program*, said user *with said scheduled future television program at a user-defined time*" as recited in claim 36.

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More specifically, Appellants submit that *Ellis* discloses a "Program Guide System with Video-On-Demand Browsing" (Title, emphasis added). "If a video-on-demand program of interest is found, the viewer has several options. For example, the viewer may... 2) request the program..." (p. 25, line 10, emphasis added). "[I]f the selected program is ordered for a later time, the program guide may automatically start the program at that later time. Furthermore, the program guide may be configured to present a reminder screen... so that the viewer is reminded of the scheduled start-time. When this reminder is received, the viewer may be given the option to... watch the program immediately..." (p. 25, line 30). *Ellis* appears to disclose that a user can schedule a video-on-demand program for his/her independent viewing and can then reschedule the program for his/her independent viewing. Appellants respectfully submit that this is different than "logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled television programs, the plurality of scheduled television programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, and at least one scheduled future television program, **said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time**... logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule, said IPG being further configured to **provide a user option to highlight a scheduled television program in the program schedule**... [and] logic configured to provide, **in response to a user highlighting said scheduled future television program**, said user **with said scheduled future television program at a user-defined time**" as recited in claim 36.

Appellants additionally submit that *LaJoie* fails to overcome the deficiencies of *Ellis*. More specifically, *LaJoie* appears to disclose a "[h]ighlighted program summary 346 [that]

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may list program name 374, running time 376, brief description 378, and icons 380 indicating applicable characteristics program (SAP), and stereo for the program highlighted in the program grid 366 by program cursor 394" (column 24, line 12). Appellants respectfully submit that this is different than "logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled television programs, the plurality of scheduled television programs including at least one currently scheduled television program, said currently scheduled television program being **scheduled for broadcast to a plurality of users at a predetermined current time**, and at least one scheduled future television program, **said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time**... logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule, said IPG being further configured to **provide a user option to highlight a scheduled television program in the program schedule**... [and] logic configured to provide, **in response to a user highlighting said scheduled future television program**, said user **with said scheduled future television program at a user-defined time**" as recited in claim 36. For at least this reason, claim 36 is allowable over the cited art.

Additionally, neither *TheStranger* nor *Imajima* disclose all of the elements of claim 36. More specifically, *TheStranger* merely discloses *The Truman Show* next to the date of February 11. *TheStranger* not only fails to disclose anything related to "logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule, said IPG being further configured to **provide a user option to highlight a scheduled television program in the program schedule**," but *TheStranger* fails to disclose whether *The Truman Show* has aired the previous February 11, whether the author of *TheStranger* desires to view *The Truman Show* at this time, or anything related to claim 36. For at least this reason, *TheStranger* fails to overcome the deficiencies of *Ellis*.

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Further, *Imajima* appears to disclose, at most, "an NVOD… [and] an FVOD" (column 1, line 30). Appellants respectfully submit that this does not overcome the deficiencies of *Ellis*, *LaJoie*, and *TheStranger*. For at least the reason that the references independently and in combination fail to disclose all of the claimed elements, claim 36 is allowable over the cited art.

C. Rejection of Dependent Claims 3 – 4, 7 – 8, 10 – 12, 18, 20 – 21, 25, 28 – 29, and 35

The Office Action indicates that claims 3 – 4, 7 – 8, 10 – 12, 18, 20 – 21, 25, 28 – 29, and 35 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over *Ellis* in view of *LaJoie* and *Imajima*. Appellants respectfully traverse this rejection for at least the reason that *Ellis* in view of *LaJoie*, *TheStranger*, and *Imajima* fails to disclose, teach, or suggest all of the elements of claims 3 – 4, 7 – 8, 10 – 12, 18, 20 – 21, 25, 28 – 29, and 35. More specifically, dependent claims 3 – 4, 7 – 8, 10 – 12, and 18 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 20 – 21, 25, 28 – 29, and 35 are believed to be allowable for at least the reason that they depend from allowable independent claim 36. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

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VIII. CONCLUSION

Based upon the foregoing discussion, Appellants respectfully request that the Board overrule the Examiner's final rejection of claims 1 – 25 and 27 – 36, and that the application be allowed to issue as a patent with all pending claims. In addition to the claims shown in the Claims Appendix IX, Appendix X attached hereto indicates that there is no evidence being attached and relied upon by this brief. Appendix XI attached hereto indicates that there are no related proceedings.

The PTO is authorized to charge the $500 fee for this Appeal Brief to the credit account identified in the accompanying credit card authorization form. No additional fee is believed to be due in connection with this appeal. If, however, any additional fee is deemed to be payable, you are hereby authorized to charge any such fee to deposit account 20-0778.

Respectfully submitted,

_____/afb/_____

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IX.   CLAIMS APPENDIX

1.   A method for providing media services via an interactive media services client device coupled to a programmable media services server device, said method comprising:

providing a user with an interactive program guide (IPG), the IPG including a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time, said IPG being configured to provide a user option to highlight at least one scheduled program in the television program schedule;

in response to a user highlighting said scheduled future television program, providing said user with an option to view the highlighted scheduled future television program at a user-defined time;

receiving user input requesting said scheduled future television program for display at a user-defined time, wherein said user-defined time is prior to said later time, and wherein said user input requesting said scheduled future television program for display at a user-defined time includes a request for beginning a display of the scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users; and

providing said user with said scheduled future television program at said user-defined time.

2.   The method of claim 1, further comprising:

confirming that said user is authorized to receive said scheduled future television program at said user-defined time.

3.   The method of claim 1, further comprising:

charging said user a fee in connection with the provision of said television program.

4.   The method of claim 1, further comprising:

charging said user a fee in connection with providing said user with access to scheduled future television programming at said user-defined time.

5.   The method of claim 1, wherein said IPG identifies a plurality of episodes corresponding to a television show.

6.   The method of claim 5, wherein a type of said television show is from a group consisting of:

a sit-com, a drama series, and a soap opera.

7.   The method of claim 1, wherein said IPG identifies a plurality of television programs and a plurality of corresponding channels and start times.

8.   The method of claim 1, wherein said user input is provided via a remote control device and said scheduled future television program is displayed on a television screen.

9.   The method of claim 1, wherein said scheduled future television program is received from a headend.

10.   The method of claim 1, wherein said scheduled future television program is received from a content provider.

11.   The method of claim 1, wherein said scheduled future television program is stored in a memory located inside said client device.

12.   The method of claim 1, wherein said scheduled future television program is stored in a storage device coupled to said client device.

13.   The method of claim 1, wherein said scheduled future television program is stored in a storage device located in a hub.

14.   The method of claim 1, wherein said scheduled future television program is stored in a storage device located in a node.

15.   The method of claim 1, wherein said scheduled future television program is stored in a storage device located in a cable television system.

16.   The method of claim 1, wherein said scheduled future television program is stored in a storage device coupled to a cable television system.

17.   The method of claim 1, wherein said user is also provided with access to a previously broadcast television program identified in said interactive program guide.

18.   The method of claim 1, wherein said user is also provided with access to a currently broadcast television program identified in said interactive program guide.

19.   A media services device for providing a client device with a media presentation, said device comprising:

    logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled programs, the plurality of scheduled programs including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, said television program schedule including at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time;

    logic configured to provide said client device with information related to an interactive program guide (IPG) that includes said television program schedule, said IPG being configured to provide a user option to highlight at least one scheduled television program in the program schedule;

    logic configured to provide, in response to a user highlighting said scheduled future television program, said client device with data related to a user option to provide said client device with said scheduled future television program at a user-defined time; and

    logic configured to provide said client device with said scheduled future television program at a user-defined time according to a received user input,

        wherein said user-defined time is prior to said later time, and

        wherein said received user input can include a request for beginning a display of the scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users.

20. The media services device of claim 19, further comprising:

logic configured to cause said user to be charged a fee in connection with the provision of said television program.

21. The media services device of claim 19, further comprising:

logic configured to cause said user to be charged a fee in connection with providing the user with access to scheduled future television programming.

22. The media services device of claim 19, further comprising:

logic configured to confirm that said user is authorized to receive said scheduled future television program.

23. The media services device of claim 19, wherein said IPG identifies a plurality of episodes corresponding to a television show.

24. The media services device of claim 23, wherein a type of said television show is from a group consisting of:

a sit-com, a drama series, and a soap opera.

25. The media services device of claim 19, wherein said IPG identifies a plurality of television programs and a plurality of corresponding channels and start times.

27. The media services device of claim 19, wherein said scheduled future television program is received from a headend.

28.   The media services device of claim 19, wherein said scheduled future television program is stored in a memory located inside said client device.

29.   The media services device of claim 19, wherein said scheduled future television program is stored in a storage device coupled to said client device.

30.   The media services device of claim 19, wherein said scheduled future television program is stored in a storage device located in a hub.

31.   The media services device of claim 19, wherein said scheduled future television program is stored in a storage device located in a node.

32.   The media services device of claim 19, wherein said scheduled future television program is stored in a storage device located in a cable television system.

33.   The media services device of claim 19, wherein said scheduled future television program is stored in a storage device coupled to a cable television system.

34.   The media services device of claim 19, further comprising logic configured to provided said user with access to a previously broadcast television program identified in said interactive program guide.

35.   The media services device of claim 19, further comprising logic configured to provided said user with access to a currently broadcast television program identified in said

interactive program guide.

36.   A media services client device for providing a user with a media presentation, said device comprising:

logic configured to receive from a cable television system (CTS) a television program schedule with a plurality of scheduled television programs, the plurality of scheduled television programs including at least one currently scheduled television program, said currently scheduled television program being scheduled for broadcast to a plurality of users at a predetermined current time, and at least one scheduled future television program, said scheduled future television program being otherwise available only via a scheduled broadcast to a plurality of users at a predetermined later time;

logic configured to provide said user with an interactive program guide (IPG) configured to display the television program schedule, said IPG being further configured to provide a user option to highlight a scheduled television program in the program schedule; and

logic configured to provide, in response to a user highlighting said scheduled future television program, said user with said scheduled future television program at a user-defined time,

wherein said user-defined time is prior to said later time, and wherein said logic configured to provide said user with said scheduled future television program at a user-defined time includes logic configured to begin presentation of said scheduled future television program at a time when said scheduled future television program is not scheduled to begin broadcasting to a plurality of users.

X.   <u>EVIDENCE APPENDIX</u>

(None)

XI.   RELATED PROCEEDINGS APPENDIX

(None)